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**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison  
Company (U 338-E) for Approval of its  
Energy Savings Assistance and California  
Alternate Rates for Energy Programs and  
Budgets for Program Years 2015-2017.

And Related Matters.

Application 14-11-007  
(Filed November 18, 2014)

Application 14-11-009  
Application 14-11-010  
Application 14-11-011

**PACIFIC GAS AND ELECTRIC COMPANY'S (U 39 M) RESPONSE IN OPPOSITION  
TO THE PUBLIC ADVOCATES OFFICE'S PETITION FOR MODIFICATION OF  
DECISION 16-11-022**

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**I. INTRODUCTION AND SUMMARY OF ARGUMENT**

Pursuant to California Public Utilities Commission Rules of Practice and Procedure, Rule 16.4(f) (Rule), Pacific Gas and Electric Company (PG&E) files this response in opposition to “*The Public Advocates Office’s Petition for Modification of Decision 16-11-022*,” filed on February 8, 2019 (Petition).<sup>1/</sup> Changing a final issued decision is an extraordinary remedy,<sup>2/</sup> particularly when the Petition came in year three of the four-year ESA program cycle (2017-2020). To justify modifying a Commission decision, a party must show a significant change in material facts that undermine the factual premise of the decision.<sup>3/</sup> The PAO does not show a change in a material fact relating to Decision (D.) 16-11-022<sup>4/</sup> (Low-Income Decision or Decision), and this and several other failures require the Petition be denied.

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<sup>1/</sup> PAO’s public version of the Petition was filed on February 8, 2019. Rule 16.4(f) requires responses to a petition be filed within 30 days of the date the petition was filed, and Rule 1.15 states that if the last day for performance of an act falls on a weekend day, then the time limit is extended to the first day thereafter. Accordingly, this response is timely.

<sup>2/</sup> D.15-12-053, p. 5.

<sup>3/</sup> D. 17-12-006, pp. 10-11; Public Utilities Code Section 1708.

<sup>4/</sup> D.16-11-022, was modified by D.17-12-009. On February 2, 2019, the Commission issued an “*Administrative Law Judge’s Ruling Providing a Clean Copy of the Modified Red-lined Version of D.16-11-022*.” To the extent this Response refers to pages in D.16-11-022, it refers to the modified red-lined version.

The PAO's Petition alleges "irregularities" in a bid solicitation process to retain third-party contractors to assist PG&E's Energy Savings Assistance Program (ESA) program.<sup>5/</sup> The "irregularities" are alleged for two bid processes from 2015-2017, and are alleged to include delays in completing the process, nontransparent communication with bidders, and termination of a bid process.<sup>6/</sup> The Petition does not address an issue contained in the Low-Income Decision or the underlying proceeding, but seeks to impose requirements from an energy efficiency decision issued in 2018,<sup>7/</sup> issued more than one year after the Low-Income Decision.

The Petition does not allege PG&E violated a statute, Commission decision or tariff, or regulation. Alleged "irregularities" are not material facts sufficient to disturb a final Decision.

Not only does the Petition not allege a factual basis for relief, the Petition should also be denied for several procedural reasons, notably because it was filed after the one-year deadline, and because it raises issues that were not in the scope of the underlying low-income proceeding (A.14-11-007, et al.). The Petition does not seek to modify a word in the Decision, but requests to add new facts, conclusions of law, and ordering paragraphs to a two-year-old Decision. PAO requests to add these new obligations without engaging in a normal proceeding process that would include discovery and hearings.

This Response is organized into substantive and procedural justifications for denying the Petition. Substantive reasons the Petition should be denied are:

1. PG&E conducted a competitive and transparent bid solicitation process to hire an ESA contractor to assist in implementation of the ESA program. The process afforded all participants an equal opportunity to compete for a contract award.
2. Claims that PG&E unduly delayed the bid solicitation process are incorrect and should be denied. A first solicitation process was justifiably delayed because of a nearly one-year delay in issuance of a final Decision on the ESA application. A second solicitation

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<sup>5/</sup> Petition, p. 1.

<sup>6/</sup> Petition, p. 1.

<sup>7/</sup> Petition, p. 4.

process corrected a one-time omission and then proceeded in a normal timeline and resulted in a fair selection of implementers to administer the ESA program.

3. PAO attempts to make an apples-to-oranges comparison by comparing the bid proposal submitted from a contractor submitted in response to a 2015 bid process to a different contractor's bid proposal submitted in a second bid process submitted in 2017. The bids were submitted in response to two distinctly separate bid solicitation requirements and under different market conditions, rendering them inappropriate for comparison.
4. PAO incorrectly claims that PG&E disclosed one confidential communication regarding the bid solicitation process.

Procedural reasons the Petition must be denied are:

1. The Petition was filed more than two years after the Low-Income Decision, substantially after the one-year deadline.<sup>8/</sup> Granting PAO's request would vest a party with authority to unilaterally violate the Rule's deadlines by claiming it was conducting an internal investigation.
2. The Petition fails to propose "changes to the issued decision."<sup>9/</sup> The PAO does not seek to modify an issue that was raised in the Scoping Memo or addressed in the final Decision. Instead, PAO erroneously seeks to impose new obligations without engaging in a normal proceeding process.
3. PAO failed to serve and file a declaration or affidavit attesting to the new facts alleged in the Petition. This justifies dismissal with prejudice.
4. PAO's requested relief – to impose a solicitation process adopted for energy efficiency in a 2018 decision issued 14 months after the Low-Income Decision– should not be granted through a petition to modify.
5. The PAO improperly attempts to impose obligations based on a research article that interpreted data relating to another utility. Reliance on the November 2018 article is

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<sup>8/</sup> Rule 16.4(d).

<sup>9/</sup> Rule 16.4(b).

hearsay that should not be afforded weight in determining whether to revise a 2016 Decision.

6. The Petition relies on information from an audit report relating to document retention requirements. The audit report did not focus on the ESA solicitation process challenged in the Petition. The time period for the audit, 2013-2015, is unrelated to the time challenged by PAO (2015-2017).

7. PAO's requested relief extends beyond the scope of the Low-Income proceeding and, if granted, would apply potentially to utility contracts that exceed \$5 million, regardless of whether that contract was related to the ESA Program. Relief must be limited to the scope of issues encompassed in the final issued Decision.

8. PAO's requested relief, to the extent granted, should apply to the next solicitation process for retaining ESA implementer, and not during the 2017-2020 program cycle. It would be extremely burdensome to complete a new bid solicitation process and expect meaningful contractor performance during a program cycle that ends December 31, 2020.

## **II. PROCEDURAL AND FACTUAL BACKGROUND**

### **A. The Scope of the Low-Income Proceeding did not Include the Bid Solicitation Process to Retain ESA Contractors.**

PG&E filed its application on November 18, 2014 to request approval of programs and budget for its primary low-income programs, ESA and California Alternate Rates for Energy, to initiate proceeding A.14-11-007, et al. PAO's protest to the application requested several issues be included in the scope of the proceeding, but it did not request to include review of the bid solicitation processes relating to the ESA program.<sup>10/</sup> The Commission's Scoping Memo did not include in scope the issue of PG&E's ESA solicitation process, and ruled that any issue not identified was out of the scope and would not be addressed in the proceeding.<sup>11/</sup> The solicitation

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<sup>10/</sup> Protest of Office of Ratepayer Advocates, A. 14-11-007, et al, (January 12, 2015).

<sup>11/</sup> *Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge*, A. 14-11-007, et al., pp. 4-12 (April 10, 2015).

issue was not raised during discovery or hearings. The final Low-Income Decision, issued November 21, 2016, did not discuss ESA solicitation process.

The Low-Income Decision was originally scheduled to issue by December 2015.<sup>12/</sup> When it did not issue as planned, the Commission approved two bridge funding decisions each for a six-month period to permit uninterrupted operation of the ESA program. Importantly, these bridge funding decisions provided funding certainty only through 2016 but were not to “be construed as a guarantee of continued funding for the 2015-2017 ESA....”<sup>13/</sup>

**B. PG&E Completed a Bid Solicitation Process to Ensure it was Obtaining Competitive Pricing for Implementers of the ESA Program.**

PG&E decided to initiate a bid solicitation process to retain third-party contractors to assist in implementing the ESA program. Implementers manage a team of subcontractors that conduct the day-to-day operation of the ESA program, including outreach to potential customers and installation of measures into qualified customer residences. PG&E historically retained one implementer to assist with the ESA program. Beginning with the 2015 solicitation, PG&E sought to retain multiple implementers for distinct geographic regions in PG&E’s service territory, with the intent that increasing bidding opportunities for contractors would increase competition and reduce costs for ratepayers as compared to the option of direct awarding contracts to implementers.

**1. The First Bid Solicitation Process Was Delayed Because of a Delay in Issuing a Final Low-Income Decision.**

PG&E conducted two bid solicitations challenged by the PAO, bid process number 6918 (from August 2015 – February 2017), followed by number 66655 (from February 2017 – August

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<sup>12/</sup> Scoping Memo, p. 14.

<sup>13/</sup> *Interim Decision Adopting Bridge Funding from July 1, 2016 to December 31, 2016 for the Large Investor-Owned Utilities’ Energy Savings Assistance and California Alternate Rates for Energy Programs*, A. 14-11-007, et al., D.15-12-024, pp. 3, 6 (Ordering Paragraph 4) (June 10, 2016); *Interim Decision Adopting Bridge Funding from January 1, 2016 to June 30, 2016 for the Large Investor-Owned Utilities’ Energy Savings Assistance and California Alternate Rates for Energy Programs*, A. 14-11-007, et al., D.16-06-018, pp. 3, 6 (Ordering Paragraph 4) (June 10, 2016); pp. 6-8 (Conclusions of Law 1-3; Ordering Paragraph 5).

2017).<sup>14/</sup> The first solicitation (number 6918) proceeded as planned to coincide with a contract award at the beginning of the 2016 program cycle. This timing would have provided certainty of funding to enter into a multi-year implementation contracts for 2016-2017.

The reason for delay in completing the first solicitation was the Commission's timing in issuing the final Decision. When a decision did not issue in 2015, PG&E did not have Commission budget authorization to operate the ESA program past December 31, 2015. While bridge funding decisions enabled ESA program operation uninterrupted throughout 2016, these interim decisions affected the timing of the first bid solicitation process. PG&E was not authorized to award implementer contracts for longer than a six-month period, and it was impractical to conduct bid processes for short-term contracts. Instead, PG&E decided against two separate bid solicitations in 2016, as not only would that have been administratively burdensome and costly to negotiate two contracts, but also it would not have obviated the need to conduct a third bid process to negotiate a longer-term contract after the 2016 year.<sup>15/</sup> It also would have been operationally burdensome to potentially on-board and off-board contractors every six months. While PG&E recognizes that the delay was disruptive, it chose a path that it believes was less burdensome than the alternatives especially for the subcontractors involved in the work.

For these reasons, PG&E extended short-term interim contracts with the then current implementer – Richard Heath and Associates (RHA) – for the 2016 bridge funding year.

## **2. PG&E Initiated a Second Bid Process in January 2017 to Correct an Omission and Permit Maximum Competition From Potential Contractors.**

PG&E continued the first bid process after receiving the Decision. As the process was nearing resolution in January 2017, a bidder complained that PG&E did not require bidders to

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<sup>14/</sup> Declaration of Adrienne Brown in Support of Pacific Gas and Electric Company's Response in Opposition to the Public Advocates Office's Petition for Modification of Decision 16-11-022, Paragraphs 2-3.

<sup>15/</sup> Brown Declaration, paragraph 2.

possess a contractor's license from the California State Licensing Board (CLSB) prior to submitting the bid.<sup>16/</sup> Because the first process omitted this requirement during bids evaluation, PG&E decided the best action was to initiate a second bid process (bid number 66655) to provide all potential bidders an equal opportunity to submit a bid with a full understanding of the bid requirements.<sup>17/</sup>

Given the time that passed from the start of the first bid, PG&E decided to use the second bidding process as an opportunity to review and significantly revise requirements of winning contractors to implement the program. For example, bidders winning the second process would now have to purchase and store materials necessary for the ESA program, rather than PG&E store and ship the materials. Consequently, the second bid process (Bid 66655) vastly differed in scope from the first process (Bid 6918). Contractors for Bid 66655 had to satisfy all the major requirements of Bid 6918, and additionally bid to provide proposals to deliver more services including the following:

- Materials Management. Bidders had to submit business plans and price proposals for procuring and managing the materials (i.e., ESA measures), including logistics for procuring, storing, and delivering appropriate materials to customers' dwellings.
- Subcontractor Payment Model. Bidders were required to propose pricing to reimburse subcontractors for the procurement of materials required to implement the program.
- Additional ESA Measures. Bidders were required to supply additional measures for ESA, including removal of CFLs and expanding LEDs, advanced power strips, second refrigerator, and water kits.
- Information Technology. Winning bidders would be required to transition program information from the current program database [called Energy Partners Online] to a new data base [called Energy Insight].<sup>18/</sup>

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<sup>16/</sup> Petition, pp. 9-10.

<sup>17/</sup> Brown Declaration, paragraph 3.

<sup>18/</sup> Brown Declaration, paragraph 6.

The table below identifies the major substantive differences in the two bid proposals:

<b>TABLE 1</b> <b>Scope of Bid Solicitation No. 6918 versus 66655</b>		
<b>Item</b>	<b>Bid Solicitation 6918</b>	<b>Bid Solicitation 66655</b>
Regionalization	Bidders eligible for award in up to four regions	Bidders eligible for award in up to 3 regions
Installation kits, containing ready-to-ship to contractor materials to be installed into a customer's home	Included -- subcontractors would be sent ready-to-ship PG&E owned materials to be installed in a customer's home	Removed
Materials Management	Not required as contractors would be sent installation kits in time for installation	Contractors required to perform inventory management, including ordering and storing materials
Subcontractor Reimbursement Model	Installation of measures (such as lighting, showerheads, attic insulation)	Materials plus installation of measures (such as lighting, showerheads, attic insulation)
Implementer/Administrator fee	Flat fee proposal	Pay for Performance fee based on the number of treated homes (\$/per home treated) <sup>19/</sup>
New ESA program measures	Limited introduction of LED measures	Advanced Power Strips 2nd Refrigerator Removal of CFLs and expansion of Expanded LED measures Water Kits
Program Database	Use existing program database; Energy Partners Online	Required to transition to a new program databased; start program using Energy Partners Online database, then transition to use Energy Insights database <sup>20/</sup>

For this reason, PG&E expected the price proposals to vary from the first to the second bid process, and not be subject to apples-to-apples comparison.<sup>21</sup> Nine contractors submitted proposals for bid 6918. One of these contractors did not submit a bid for 66655, and two other contractors combined to submit bids, resulting in six bidders for 66655. Only one bidder from

<sup>19/</sup> Instead of receiving a payment regardless of homes treated, PG&E required to implementers to bid on a fee based on a per home basis.

<sup>20/</sup> Brown Declaration, paragraph 5.

<sup>21</sup> The Petition suggests a bid submitted for process 6918 consisted of the same items and requirements as a bid submitted for process 66655. Petition, pp. 13-16.

the first process did not participate in the second process. The final contracts were awarded the two contractors – RHA and Nexant – that submitted the lowest bid proposal that satisfied all the non-price requirements.

PAO’s analysis of bid proposals contains another error. PAO relied on a bid from RHA from the first solicitation<sup>22/</sup> that represented RHA’s *alternative* bid, not its primary proposal. PG&E determined the *alternative* bid proposal was not responsive to the solicitation requirements, and that alternative bid was not considered. PG&E only considered RHA’s primary proposal.<sup>23/</sup> For this additional reason, it is error to compare the RHA alternative bid proposal to the bids submitted with the second bid.<sup>24/</sup>

### III. ANALYSIS

#### A. The PAO does not Provide a Sufficient Substantive Basis to Modify the Low-Income Decision.

The Commission characterized its authority to modify past decisions as an “‘extraordinary remedy’ that must be sparingly and carefully applied.”<sup>25/</sup> Under normal circumstances, settled expectations arising out of final decisions should remain undisturbed.<sup>26/</sup> A petition should be denied if it fails to “demonstrate a new fact, material change in conditions, or misconception that would create a ‘strong expectation’ that the Commission would have reached a different result based on the new information.”<sup>27/</sup> In this Petition, because the ESA solicitation process was not an issue addressed in the Decision, and alleged new facts did not come to being until after the Decision, no possible “strong expectation” can exist that the Commission would have reached a different decision. The Commission is not requested to change a word of the Decision; it is requested impose new obligations based on allegations that were never litigated.

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<sup>22/</sup> Petition, p. 13.

<sup>23/</sup> Brown Declaration, paragraph 6.

<sup>24/</sup> PAO did not attempt to follow up with PG&E after it analyzed PG&E’s responses to data requests. PG&E would have explained its treatment of the RHA’s *alternative* proposal.

<sup>25/</sup> D. 15-12-053, p. 5, *citing*, Public Utilities Code section 1708.

<sup>26/</sup> D. 15-12-053, p. 5.

<sup>27/</sup> D. 17-12-006, p. 11.

Imposing new ordering paragraphs without a procedural process is improper through a petition for modification.

**1. PG&E Conducted Bid Solicitation Processes in a Competent Manner That Fostered Fairness to Bidders and Resulted in a Competitive Rate for the Utility and Ratepayers.**

PAO presents several allegations for granting its Petition. In these attempts, PAO does not allege that PG&E violated a statute, regulation or Commission rule. The Petition must fail because the claims allege only “irregularities” that do not rise to material facts sufficient to justify relief.

In its discretion, PG&E decided that conducting the bid solicitations furthered a goal of obtaining competent services at a competitive price for it and ratepayers. In doing so, PG&E complied with a California law that detailed minimum consideration standards for the review of bids.<sup>28/</sup> PAO did not allege violation of these standards.

The initial solicitation process contained one omission by neglecting to initially require contractors possess a CLSB license at the time of submitting a bid. This omission was remediated by restarting the bid process to ensure each bidder received all requirements at the same time and had a full opportunity to submit proposals. This action ensured an equal process for bidder and removed a possible perception that one bidder could gain an advantage.

**2. PAO did not Demonstrate that PG&E Awarded More Expensive Contracts After Conducting a Second Bid Solicitation Process.**

PAO claims PG&E awarded more expensive contracts to third-party implementers after second bid solicitation process. PAO is incorrect primarily because it inaccurately compares bid

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<sup>28/</sup> To PG&E’s knowledge, the Commission does not require bidding of the low-income programs. Public Utilities Code section 327(b) states that “*If the commission requires low-income energy efficiency programs to be subject to competitive bidding, ... the bidding criteria, at a minimum, shall recognize*” the bidder’s (1) experience in delivering programs and services in the weatherization program, (2) knowledge of the targeted communities, (3) ability to reach targeted communities., (4) ability to utilize and employ people from the local area, (5) general contractor's license and evidence of good standing with the Contractors' State License Board (6) performance quality as verified by the funding source; (7) financial stability; (8) ability to provide local job training, and (9) other attributes that benefit local communities. (emphasis added).

prices submitted confidentially by two different contractors, in two different years, and in response to two different bid solicitations that had vastly different bid submission requirements. The requirements varied greatly enough between the two proposals that comparing prices produces no material facts or trend regarding price proposals. Table 1, at page 8, demonstrates that the bidders to the second bid solicitation were required to submit price proposals for almost all items in the first solicitation, and additionally submit proposals for several additional requirements including a duty to manage procurement, storage, and delivery of ESA measure materials for installation into approximately 100,000 dwellings per year. Further, PAO's comparison of bid proposals was improper because it relied on a bid that PG&E rejected for consideration.<sup>29/</sup>

### **3. PG&E did not Leak Potentially Confidential Information.**

While it does not directly make a claim of impropriety, PAO cites to only one communication to suggest PG&E leaked information regarding a bid solicitation process in violation of confidentiality rules.<sup>30/</sup> The PAO alleges that a bidder "perhaps" had specific information about a competitor's bid, but does not allege PG&E was the source of disclosure of the information.<sup>31/</sup> This false implication should not support grant of the Petition.

PG&E did not release the information relating to a bid solicitation process at issue other than in accordance with planned communications to all potential bidders. PG&E made all communications about the bid process through a public website portal so that all participants received access to information at the same time. If the information was not released through the public portal, then PG&E did not issue the communication for purposes of a bid solicitation. However, existence of the public portal does not prevent third parties from communicating with others. PG&E is not in position to monitor and police third-party communications, and would not be aware if a third party decided to release information it received as part of the process. To

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<sup>29/</sup> See, *supra*, p. 9.

<sup>30/</sup> Petition, p. 7.

<sup>31/</sup> *Id.*

the extent other third parties may have been forwarded information, PG&E is unaware of how they may have received the information or whether the information they received was accurate.

**B. PAO's Petition Must be Denied Because of Procedural Deficiencies.**

The Petition should be denied for several procedural reasons, including failure to comply with Rule 16.4.

**1. The Petition is Untimely Because it was Filed More Than One Year Following a Final Decision.**

A petition filed more than one year after the effective date of a decision without sufficient justification is subject to summary denial.<sup>32/</sup> PAO requests relief because it devoted time to investigate an issue relating to the ESA bid process. This is insufficient reason for waiting more than two years after the final Decision to file a Petition.

PAO did not issue data requests for nearly one year after the Decision. This action alone demonstrates that their data requests are unrelated to the Decision. Moreover, however, PAO does not explain why it delayed filing a Petition for more than one year after receiving responses to data requests.<sup>33/</sup> It unilaterally decided upon a schedule to complete its review and for filing a petition, regardless of the filing requirements established by Rule 16.4 (d). Should the Commission accept PAO's reasoning, then the PAO and a party will have license to establish its own internal deadlines and set their own dates for filing a petition. PAO would not be bound by the Rule requiring a filing within one year of a decision, because it will be authorized to assert justifiable delay by virtue of an ongoing, but unknown, investigation. For Rule 16.4(d) to have meaning, it cannot be excused based on a party's discretion on time to file.

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<sup>32/</sup> Rule 16.4 (d) ("[A] petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision"); Decision (D.) 18-09-005, p. 11 (denying a late-filed and unjustified petition); D. 15-12-053, p.5 (Commission can reject petitions that it finds do not adequately justify a late submission).

<sup>33/</sup> PG&E provides rolling responses to PAO's data requests and completed the response on December 20, 2017.

**2. The Petition is not Supported by a Declaration or Affidavit Attesting to New or Changed Facts.**

Rule 16.4 explicitly requires a declaration or affidavit attesting to allegations of new facts in support of a Petition.<sup>34/</sup> PAO's Petition is not accompanied by a declaration or affidavit supports its new alleged facts. Accordingly, all facts alleged in the Petition constitute inadmissible hearsay. The Petition should be summarily denied on this basis.

**3. The Petition does not Attempt to Revise an Issue That is Addressed in the Low-Income Decision, and a Petition is the Improper Mechanism to Convert PAO's Review Into New Obligations in the Decision.**

A petition for modification asks the Commission to make changes to an issued decision, and requires the petitioner propose specific wording to carry out all requested modifications.<sup>35/</sup> The Petition must demonstrate material changes from the time of the Decision to create a "strong expectation" that the new information would have led to a different Decision.<sup>36/</sup> PAO's Petition does none of these things, as there is nothing in the Petition that references or would affect an issue in the Decision. The Petition does not propose a change to the Decision<sup>37/</sup> but to impose new obligations on PG&E.<sup>38/</sup> Further, these obligations are based on one party's internal review of data requests with no process to test its allegations. Using a petition to circumvent the normal proceeding process should be rejected.

In a similar setting, the Commission ruled that a petition for modification is not a mechanism for a party to introduce results of its own investigation under the guise of modifying a decision. In Rulemaking 12-11-005, *Order Instituting Rulemaking Regarding Policies*,

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<sup>34/</sup> Rule 16.4(b).

<sup>35/</sup> Rule 16.4(b); D.16-06-055, p.61 ("[A] Petition for Modification asks to Commission to Make changes and an issued decision").

<sup>36/</sup> D.17-12-006, pp. 10-11.

<sup>37/</sup> Rule 16.4 requires a petition to "propose specific wording to carry out all requested modification to the decision.; D.16-06-055, p.61 ("[A] Petition for Modification asks to Commission to make changes and an issued decision.").

<sup>38/</sup> Petition, Appendix A.

*Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program,*  
the Commission found:

We agree with Stem that a Petition for Modification is the procedurally improper mechanism to address Mass Energy's requests. According to Rule 16.4 of the Commission's Rules of Practice and Procedure, a Petition for Modification asks the Commission to make changes to an issued decision, must concisely state the justification for the requested relief, and must propose specific wording to carry out all requested modifications to the decision. Rather, Maas Energy's Petition is *largely a discussion of its own investigation* of the SGIP online application portal and how particular applicants may have been more successful than others in submitting applications quickly. A Petition for Modification is not the appropriate procedural vehicle for starting an investigation into the equity of the SGIP solicitation results. Accordingly, the Petition fails to meet the Commission's standards for a Petition for Modification and is denied.<sup>39/</sup>

**4. PAO Seeks Relief that is Far Greater Than Permissible in a Petition for Modification.**

PAO presents issues relating only to the ESA bid process, but its relief sought extend far broader than the ESA program and would apply throughout the utility. For example, PAO seeks to impose an obligation to file a Tier II letter for *any* proposed contract that would exceed \$5 million dollars, regardless of whether the contract is related to the ESA program.<sup>40/</sup> PAO does not justify this requirement for the ESA program, and nor does it attempt to address the basis for seeking company-wide relief. Relief this broad in scope and magnitude is not appropriate for resolution through a petition for modification. If the Petition is considered, any relief must be limited to the scope of the Low-Income Proceeding.

**5. PAO's Requested Relief, if Granted, Should Apply Prospectively and not to the Completed ESA Solicitation Process.**

By seeking to modify the Decision, PAO may seek relief to be completed during the current program cycle. PAO's relief sought, to the extent granted, must be applied to the next ESA solicitation process. It is burdensome to terminate current contracts with implementers,

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<sup>39/</sup> Decision 16-06-055, p. 61 (emphasis added).

<sup>40/</sup> Petition, Appendix A, pp. A-1 (proposed new Conclusion of Law 8), A-2 (proposed new Ordering Paragraph 2).

presumably negotiate interim contracts with implementers so as not cause an interruption of ESA, complete a new bid solicitation and negotiate new contracts, “on board” the contractors into the program in terms of operations and administrative processes, and, after all of these processes, to expect meaningful contractor performance during a program cycle that ends December 31, 2020. The prudent result is to apply relief granted, if any, only prospectively.

**6. The Commission Should not Impose Obligations From Another Proceeding onto the ESA Proceeding Through a Petition for Modification.**

The Commission ordinarily issues ordering paragraphs in a decision following the completion of a proceeding process that allows for scoping of issues, discovery, possibly workshops and hearings, and briefing. The Petition seeks to retroactively impose the results of a 2018 energy efficiency decision (D.18-01-004) onto the ESA programs without procedural process. The energy efficiency decision does not “create a strong expectation” or represent a material fact change that should justify revising a prior decision. At a minimum, the relief sought by PAO – to adopt a procurement review process similar to that adopted in an energy efficiency proceeding – should be considered after it been properly vetted in a low-income proceeding and adjusted for the specifics of the ESA work.

PG&E notes that the energy efficiency bid process (D.18-01-004) was adopted to handle several solicitations, and that process is still untested to know how burdensome or cumbersome the administration may be. In contrast, the ESA process involves fewer solicitations, and would benefit from a more streamlined approach. Also, PG&E believes that participation in a future ESA procurement review group should require specific knowledge related to the ESA and low-income issues, and would not necessary coincide with membership in the energy efficiency review group. On a related point, the energy efficiency procurement review group solution may be too cumbersome and may not take advantage of distinct knowledge required for a successful ESA process, which is why it is essential the Commission not consider adopting new rules until

there has been opportunity for party input through a proceeding process to allow the process to be tailored for ESA.

**7. The State Controller’s Office’s Audit of the ESA Program Focused on Issues Related to Document Retention Practices, and did not Investigate a Bid Solicitation Process.**

PAO’s reference to a State Controller’s Office (SCO) audit<sup>41/</sup> is not evidence of alleged “irregularities” with PG&E’s bid solicitation process. The alleged facts from the SCO report do not suggest a major change in facts that would “create a strong a strong expectation that [the Commission] would make a different decision based on these facts or circumstances.”<sup>42/</sup>

First, the time period of the SCO audit, January 1, 2013 through December 31, 2015, is different from the time period of the PAO’s petition (2015-2017). Second, the substantive scope of the SCO audit is different from the scope of the Petition. The SCO report focused in scope mainly on document retention requirements, not a review of any solicitation process, as summarized in the SCO’s audit cover letter:

The objectives of the audit were to (1) determine whether PG&E manages the ESA program in conformance with applicable laws, regulations, and agreement terms and conditions; (2) assess whether PG&E’s ESA program is in compliance with applicable laws, regulations, and agreement terms and conditions; (3) identify opportunities and priorities in which financial management governance may help to strengthen key controls; and (4) follow up on prior audit findings and evaluate the effectiveness of remediation.<sup>43/</sup>

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<sup>41/</sup> Petition, p. 17. The Petition cites to “Pacific Gas and electric Audit Report – Energy Savings Assistance Program, January 1, 2013 through December 31, 2015, California State Controller, October 2018. The version of the report provided to PG&E is dated December 5, 2018.

<sup>42/</sup> See, D.17-12-006, pp. 1, 11-12.

<sup>43/</sup> SCO Audit Report, Cover Letter, p. 1; Declaration of Paola Benassi in Support of Pacific Gas and Electric Company’s Response in Opposition to the Public Advocates Office’s Petition for Modification of Decision 16-11-022, Paragraph 2, Exhibit A.

Further, SCO's findings also confirm its investigation did not focus an ESA solicitation process:

Our audit found that:

- PG&E did not maintain validation checklists for five of 34 ESA program expenditures tested to indicate that the expenditures were reviewed and authorized prior to payment;
- PG&E did not have an appropriate method for capturing and accounting for ESA program administrative costs; and
- Two of four contract records tested lacked adequate documentation to support contract awards.<sup>44/</sup>

The audit report cited PG&E for not providing documentation supporting its contract award following a bid process in 2012. Because SCO said it did not receive this document, SCO concluded it did not review a written justification for an award in 2012. The SCO's comment was identified in a section titled, "PG&E did not provide adequate documentation for contract procurement."<sup>45/</sup> Thus, the SCO's focus was on documents retained demonstrating the contract award, and not an underlying review of the bidding process. As stated, the SCO did not review the propriety of the 2012 solicitation process.

As an aside, PG&E respectfully responded the SCO draft report and provided documentation supporting its 2012 contract award. Four weeks before the SCO issued its final audit report, PG&E provided the following response to the SCO draft recommendation:

....However, PG&E disagrees that PG&E was not able to provide justification for selecting the contractor. PG&E was able to locate a supporting document that contains the majority of the information documented in the bid record form... and provides justification for the award. PG&E will provide a copy of this information to the SCO through a separate communication.<sup>46/</sup>

PG&E provided the bid justification information on November 5, 2018. The SCO attached PG&E's response to its SCO report.<sup>47/</sup>

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<sup>44/</sup> *Id.*

<sup>45/</sup> *Id.*, page 7 of SCO audit report. Benassi Declaration, Paragraph 4.

<sup>46/</sup> *Id.*, Attachment to the SCO audit report. Benassi Declaration, Paragraphs 3-4.

<sup>47/</sup> *Id.*, Attachment to the SCO audit report. Benassi Declaration, Paragraphs 3-4.

**8. Referral to a Third-Party Research Article, Which Relies on Data Received From Another Utility, Cannot Serve as a Basis for Relief Against PG&E in a Petition.**

Two years after the Decision, in November 2018, a third-party organization published a research article entitled, “The Welfare Costs of Misaligned Incentives: Energy Inefficiency and the Principal-Agent Problem.”<sup>48/</sup> That article, at page 6, specifically states that it did not rely on information relating to PG&E: “I focus on the ESA program administered by SCE [Southern California Edison Company].”<sup>49/</sup> The article’s opinion based on information from another utility cannot serve as a basis for relief against PG&E through a petition for modification.

Procedurally, an opinion published well after the Decision is hearsay and not a basis for making change to the Decision. No reason exists to believe that this 2018 article would have, or obviously could have, affect the Commission’s determination of any issue in 2016.

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<sup>48/</sup> Petition, p. 18.

<sup>49/</sup> Blonz, Joshua A, “*The Welfare Costs of Misaligned Incentives: Energy Efficiency and the Principal-Agent Problem*,” Resources for the Future, p. 6.

#### IV. CONCLUSION

PAO's Petition does not provide substantive justification for establishing oversight of the request for proposal process. The Petition at most provides what PAO identifies as "irregularities," in its opinion, but it does not identify a violation of law or regulation. The Petition provides no "strong expectation" that the Commission would make a different decision based on the PAO's facts. Procedurally, the Petition does not address an issue raised in the Decision and does not seek to revise an issue in that Decision, and suffers from several deficiencies that warrant dismissal with prejudice. PG&E respectfully requests the Commission deny the Petition.

Respectfully Submitted,

DARREN P. ROACH

By: /s/ Darren P. Roach  
DARREN P. ROACH

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Email: [Darren.Roach@pge.com](mailto:Darren.Roach@pge.com)

Dated: March 11, 2019

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison  
Company (U 338-E) for Approval of its  
Energy Savings Assistance and California  
Alternate Rates for Energy Programs and  
Budgets for Program Years 2015-2017.

And Related Matters.

Application 14-11-007  
(Filed November 18, 2014)

Application 14-11-009  
Application 14-11-010  
Application 14-11-011

**DECLARATION OF ADRIENNE BROWN IN SUPPORT OF PACIFIC GAS  
AND ELECTRIC COMPANY'S (U 39 M) RESPONSE IN OPPOSITION TO THE  
PUBLIC ADVOCATES OFFICE'S PETITION FOR MODIFICATION OF DECISION  
16-11-022**

I, Adrienne Brown, declare under penalty of perjury under the laws of the State of California that the following is true and correct to the best of my knowledge and belief:

1. I am a Manager in the Sourcing Department at Pacific Gas and Electric Company (PG&E). I have subject-matter knowledge of the bid solicitation process for the Energy Savings Assistance (ESA) program.

2. PG&E conducted bid solicitation number 6918 for the ESA program from August 2015 through February 2017. I understand PG&E received bridge funding decisions for 2016, which I understand to mean short-term authorized funding for the ESA program for the 2016 year, but not for 2017. PG&E decided to not issue two short-term contracts for 2016. PG&E decided to extend the contract of the current ESA implementer for the 2016 year. PG&E continued bid number 6918 when it received a decision on its application in November 2016.

3. PG&E learned of a requirement omitted from bid 6918, in that PG&E did not require bidders to possess a contractor's license from the California State Licensing Board prior to submitting the bid. PG&E decided to issue a second bid process for the ESA program, bid

number 66655, from February 2017 through August 2017. Bid process 66655 afforded all potential bidders an equal opportunity to submit a bid after receipt of all bid requirements at the same time.

5. The requirements for second bid process, number 66655, was not the same for the first process, number 6918. A table identifying major substantive differences in the two bid solicitations follow:

<b>TABLE 1</b> <b>Scope of Bid Solicitation No. 6918 versus 66655</b>		
<b>Item</b>	<b>Bid Solicitation 6918</b>	<b>Bid Solicitation 66655</b>
Regionalization	Bidders eligible for award in up to four regions	Bidders eligible for award in up to 3 regions
Installation kits, containing ready-to-ship to contractor materials to be installed into a customer's home	Included -- subcontractors would be sent ready-to-ship PG&E owned materials to be installed in a customer's home	Removed
Materials Management	Not required as contractors would be sent installation kits just in time for installation	Contractors required to perform inventory management, including ordering and storing materials
Subcontractor Reimbursement Model	Installation of measures (such as lighting, showerheads, attic insulation)	Materials plus installation of measures (such as lighting, showerheads, attic insulation)
Implementer/Administrator fee	Flat fee proposal	Pay for Performance fee based on the number of treated homes (\$/per home treated) <sup>1</sup>
New ESA program measures	Limited introduction of LED measures	Advanced Power Strips 2nd Refrigerator Removal of CFLs and expansion of Expanded LED measures Water Kits
Program Database	Use existing program database; Energy Partners Online (EPO)	Required to transition to a new program databased; start program using Energy Partners Online (EPO) database, then transition to use Energy Insights database

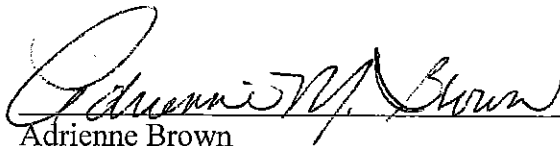
<sup>1</sup> Instead of receiving a payment regardless of homes treated, PG&E required to implementers to bid on a fee based on a per home basis.

6. Bidders to 66655 had to provide a proposal to provide services that were not part of bid 6918. The major additional requirements were:

- Materials Management. Bidders had to submit business plans and price proposals for procuring and managing the materials (i.e., ESA measures), including logistics for procuring, storing, and delivering appropriate materials to customers' dwellings.
- Subcontractor Payment Model. Bidders were required to propose pricing to reimburse subcontractors for the procurement of materials required to implement the program.
- Additional ESA Measures. Bidders were required to supply additional measures for ESA, including removal of CFLs and expanding LEDs, advanced power strips, second refrigerator, and water kits.
- Information Technology. Winning bidders would be required to transition program information from the current program database [called Energy Partners Online] to a new data base [called Energy Insight].

7. I looked at the information that the Public Advocated Office (PAO) included on page 13 of its Petition for Modification filed on February 8, 2019 in A.14-11-007. That page refers to a bid from Richard Heath and Associates (RHA). The amount identified on page 13 indicates that PAO is referencing an alternative bid proposal. PG&E did not consider that bid as responsive to bid 6918 requirements and did not consider it in the solicitation process.

Executed in San Francisco, California on March 11, 2019.

  
Adrienne Brown

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of Southern California Edison  
Company (U 338-E) for Approval of its  
Energy Savings Assistance and California  
Alternate Rates for Energy Programs and  
Budgets for Program Years 2015-2017.

And Related Matters.

Application 14-11-007  
(Filed November 18, 2014)

Application 14-11-009  
Application 14-11-010  
Application 14-11-011

**DECLARATION OF PAOLA BENASSI IN SUPPORT OF PACIFIC GAS  
AND ELECTRIC COMPANY'S (U 39 M) RESPONSE IN OPPOSITION TO THE  
PUBLIC ADVOCATES OFFICE'S PETITION FOR MODIFICATION OF DECISION  
16-11-022**

I, Paola Benassi, declare under penalty of perjury under the laws of the State of California that the following is true and correct to the best of my knowledge and belief:

1. I am a Manager of the Energy Savings Assistance (ESA) program at Pacific Gas and Electric Company (PG&E).


2. I have read the Petition for Modification filed by the Public Advocates on February 8, 2019. On page 17 of that Petition, PAO cites to a report entitled: "Pacific Gas and electric Audit Report – Energy Savings Assistance Program, January 1, 2013 through December 31, 2015, prepared by the California State Controller's Office. The PAO Petition, on page 17, refers to a draft report dated October 8, 2018.

3. PG&E provided a response to the State Controller's Office (SCO) draft audit on November 5, 2018. At page 3 of its response, PG&E provided a response to the SCO recommendation that documentation exist to support a contract award in 2012. In a separate communication to SCO on November 5, 2018, PG&E provided to the SCO documentation that

contained PG&E's business reasons for award of a contract to an implementer in 2012.

4. PG&E understands the SCO issued a final audit report on December 5, 2018. That final audit report attached PG&E's response. A true and correct copy of that final audit report, with PG&E's response dated November 5, 2018, is attached as Exhibit A to this Declaration.

Executed in San Francisco, California on March 8, 2019.

  
\_\_\_\_\_  
Paola Benassi

# **EXHIBIT A**

# **PACIFIC GAS AND ELECTRIC COMPANY**

Audit Report

## **ENERGY SAVINGS ASSISTANCE PROGRAM**

*January 1, 2013, through December 31, 2015*



**BETTY T. YEE**  
California State Controller

December 2018



**BETTY T. YEE**  
California State Controller

December 5, 2018

Mary O'Drain, Regulatory Reporting and Policy Expert  
Pacific Gas and Electric Company  
245 Market Street  
San Francisco, CA 94105

Dear Ms. O'Drain:

The State Controller's Office audited Pacific Gas and Electric Company's (PG&E) Energy Savings Assistance (ESA) program for the period of January 1, 2013, through December 31, 2015.

The objectives of the audit were to (1) determine whether PG&E manages the ESA program in conformance with applicable laws, regulations, and agreement terms and conditions; (2) assess whether PG&E's ESA program is in compliance with applicable laws, regulations, and agreement terms and conditions; (3) identify opportunities and priorities in which financial management governance may help to strengthen key controls; and (4) follow up on prior audit findings and evaluate the effectiveness of remediation.

We assessed and evaluated the ESA program's processes, rather than the effectiveness of internal controls, to determine whether key processes could be strengthened (Objective 3).

We did not validate the effectiveness of remediation for six of the nine observations identified in the California Public Utilities Commission's (CPUC) prior examination of the ESA program and four findings in the two prior PG&E internal audits. We limited our follow-up to reviewing PG&E's corrective action plans and related documentation (Objective 4).

Our audit found that:

- PG&E did not maintain validation checklists for five of 34 ESA program expenditures tested to indicate that the expenditures were reviewed and authorized prior to payment;
- PG&E did not have an appropriate method for capturing and accounting for ESA program administrative costs; and
- Two of four contract records tested lacked adequate documentation to support contract awards.

These issues are further described in the Findings and Recommendations section of this report.

If you have any questions, please contact Andrew Finlayson, Chief, State Agency Bureau, by telephone at (916) 324-6310.

Sincerely,

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

JVB/as

cc: Aaron Johnson, Vice President, Customer Energy Solutions  
Pacific Gas and Electric Company  
Vincent Davis, Senior Director, Energy Efficiency  
Pacific Gas and Electric Company  
Paola Benassi, Manager (via email)  
Energy Savings Assistance Program  
Pacific Gas and Electric Company  
Thuong-Tina Nguyen, Senior Program Manager  
Pacific Gas and Electric Company  
Edward Randolph, Director  
Energy Division  
California Public Utilities Commission  
Robert Strauss, Manager (via email)  
Energy Efficiency Branch, Energy Division  
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Alison LaBonte, Ph.D., Supervisor  
Residential Energy Efficiency Programs and Portfolio Approval, Energy Division  
California Public Utilities Commission  
Syreeta Gibbs, Senior Public Utility Regulatory Analyst (via email)  
Residential Energy Efficiency Programs and Portfolio Approval, Energy Division  
California Public Utilities Commission  
Lola Odunlami, Public Utility Regulatory Analyst (via email)  
Residential Energy Efficiency Programs and Portfolio Approval, Energy Division  
California Public Utilities Commission  
Barbara Owens, Director of Enterprise Risk and Compliance Office (via email)  
Executive Division  
California Public Utilities Commission  
Kevin Nakamura, Program and Project Supervisor (via email)  
Utility Audits, Finance and Compliance Branch  
California Public Utilities Commission

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# Audit Report

## Summary

The State Controller's Office (SCO) audited Pacific Gas and Electric Company's (PG&E) Energy Savings Assistance (ESA) program for the period of January 1, 2013, through December 31, 2015.

The purpose of this audit was to ensure PG&E's compliance with Public Utilities Code and regulations associated with the Income Qualified Assistance Program for the ESA program, the *California Statewide Energy Savings Assistance Program Policy and Procedures Manual*, and program rules and restrictions provided by PG&E.

Our audit found that:

- PG&E did not maintain validation checklists for five of 34 ESA program expenditures tested to indicate that the expenditures were reviewed and authorized prior to payment;
- PG&E did not have an appropriate method for capturing and accounting for ESA program administrative costs; and
- Two of four contract records tested lacked adequate documentation to support contract awards.

These issues are further described in the Findings and Recommendations section of this report.

## Background

The ESA program, administered by electrical and gas utility companies, provides weatherization and energy efficiency measures, minor home repairs, and energy education at no cost to income-eligible program participants. Weatherization includes attic insulation, caulking, weather-stripping, low-flow showerheads, water heater blankets, and door and building envelope repairs that reduce air infiltration. The program's purpose is to reduce energy consumption, resulting in bill savings, while also increasing the health, comfort, and/or safety of the household. The ESA program is funded by ratepayers as part of a statutory "public purpose program surcharge" that appears on monthly utility bills. Income eligibility for ESA program participation is set at 200% or less of the Federal Poverty Guidelines. The program's ultimate goal is to deliver increasingly cost-effective and longer-term savings to participants.

Public Utilities Code section 2790 requires that electrical or gas corporations perform home weatherization services for low-income customers if the California Public Utilities Commission (CPUC) determines that a significant need for those services exists in the corporation's service territory.

The CPUC requires that utility companies adhere to the *California Statewide Energy Savings Assistance Program Policy and Procedures Manual*, and comply with Public Utilities Code, CPUC directives, and CPUC General Orders (GO).

CPUC Decision (D.) 12-08-044 and D.14-08-030 authorized average annual budgets of approximately \$158 million in ratepayer funds to administer and implement PG&E's ESA program budget for calendar years 2013 through 2015. Budgeted and actual amounts for the three calendar years are as follows:

Year	Budgeted	Actual
2013	\$ 156,330,249	\$ 142,181,389
2014	\$ 166,669,284	\$ 145,940,449
2015	\$ 163,946,778	\$ 136,775,345

We performed the audit at the request of the CPUC, pursuant to an Interagency Agreement.

### **Objectives, Scope, and Methodology**

The objectives of the audit were to:

- Determine whether PG&E manages the ESA program in conformance with applicable laws, regulations, and agreement terms and conditions;
- Assess whether PG&E's ESA program is in compliance with applicable laws, regulations, and agreement terms and conditions (see Appendix 1);
- Identify opportunities and priorities in which financial management governance may help to strengthen key controls; and
- Follow up on prior audit findings and evaluate the effectiveness of remediation.

We assessed and evaluated the ESA program's processes, rather than the effectiveness of internal controls, to determine whether key processes could be strengthened (Objective 3).

We did not validate the effectiveness of remediation for six of the nine observations identified in the CPUC's prior examination of the ESA program and four findings in the two prior PG&E internal audits. We limited our follow-up to reviewing PG&E's corrective action plans and related documentation (Objective 4).

We conducted an audit of PG&E's ESA program for the period of January 1, 2013, through December 31, 2015.

To achieve our objectives, we:

- Reviewed prior audit reports of PG&E related to the ESA program to follow up on prior audit findings by reviewing the action plan and responses to recommendations, and analyzing supporting documentation to determine whether remediation efforts were implemented;
- Reviewed applicable laws, regulations, agreement terms and conditions, policies, and procedures related to PG&E's ESA program required by the CPUC for all energy utilities;

- Interviewed all PG&E ESA program employees and reviewed PG&E's ESA program Annual Reports to:
  - Gain an understanding of the ESA program's services and benefits, budgets, operational goals, funding sources, revenues, expenditures, targeted beneficiaries, and recent statistical results;
  - Gain an understanding of the ESA program's accounting and operational systems; and
  - Assess and evaluate the ESA program's processes, and determine whether key processes could be strengthened.

Upon gaining an understanding of PG&E's administration of the ESA program, we judgmentally selected transactions using non-statistical samples; errors found were not projected to the intended population.<sup>1</sup> We:

- Selected 34 of 114,413 (\$1,450,386 of \$422,920,830) ESA program expenditure transactions, and reviewed invoices and other supporting documents;
- Reviewed 15 of 889 ESA program customer files and records to determine compliance with the Modified 3 Measure Minimum Rule;
- Selected three of 42 contracts and reviewed bid awards;
- Reviewed all fund shifting instances reported in the ESA program Annual Reports; and
- Reviewed the ESA program balancing account.

We conducted this performance audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings, conclusions, and recommendations based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations based on our audit objectives.

We did not audit PG&E's financial statements. We limited our audit scope to planning and performing audit procedures necessary to obtain reasonable assurance that PG&E's ESA program was in compliance with the laws and regulations associated with the Income Qualified Assistance programs, the *California Statewide Energy Savings Assistance Program Policy and Procedures Manual*, and program rules and restrictions provided by PG&E.

## Conclusion

We identified instances of non-compliance with applicable laws, regulations, and agreement terms and conditions, as described in the Findings and Recommendations section of this report.

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<sup>1</sup> As these samples were not statistical, we made no assumption that the errors would also be found in the transactions not sampled.

**Follow-up on  
Prior Audit  
Findings**

We reviewed the CPUC's prior examination of the ESA program, *Interim Financial, Management and Regulatory Compliance Examination of Pacific Gas & Electric Company's Energy Savings Assistance Program for January 1, 2009 through December 31, 2010*, dated April 16, 2013, and presented our comments in Appendix 2 of this report. Based on work performed in the current audit, we noted that PG&E has not implemented appropriate corrective actions for Observations 2 and 6. PG&E stated that Observation 7 is pending guidance from the CPUC Energy Division. We did not validate the effectiveness of remediation for Observations 8, 9, 10, 11, 14, and 15.

We also reviewed PG&E's internal audit reports for the ESA program, File Nos. 15-017 and 15-028, dated February 3, 2015, and April 24, 2015, respectively. We identified one finding regarding supervisor ride-alongs for inspections that was not relevant to the objectives of the current audit (Finding 2, February 3, 2015 audit); therefore, we did not consider follow-up to be necessary for this finding. For Finding 1 (April 24, 2015 audit), we had a similar finding regarding the classification of administrative costs (Finding 2 of the current audit). For Finding 3 (April 24, 2015 audit) regarding supporting documentation for program costs, our testing in this area did not identify any issues; therefore, we did not consider additional follow-up to be necessary. We did not validate the effectiveness of remediation for Findings 1 and 3 (February 3, 2015 audit); and Findings 2 and 4 (April 24, 2015 audit).

**Views of  
Responsible  
Officials**

We issued a draft audit report on October 3, 2018. Marlene Murphy-Roach, Director, Low Income Programs & Disadvantaged Communities, responded by letter dated November 5, 2018 (Attachment), partially agreeing with the audit findings. This final report includes PG&E's response.

**Restricted Use**

This report is solely for the information and use of PG&E, the CPUC, and the SCO; it is not intended to be and should not be used by anyone other than these specified parties. This restriction is not intended to limit distribution of this report, which is a matter of public record.

*Original signed by*

JEFFREY V. BROWNFIELD, CPA  
Chief, Division of Audits

December 5, 2018

## Findings and Recommendations

**FINDING 1—  
PG&E did not  
consistently  
maintain validation  
checklists for ESA  
expenditures**

We selected 34 of 114,413 (\$1,450,386 of \$422,920,830) ESA program expenditure transactions, and reviewed invoices and other supporting documentation. We noted that five transactions (15%, totaling \$218,524) did not have validation checklists, which are used internally by PG&E to document expenditure review and approval prior to payment. Of the 34 transactions, 11 were from 2013, 11 were from 2014, and 12 were from 2015. The invoices were dated as follows:

<u>Date</u>	<u>Amount</u>
July 3, 2013	\$ 41,526
August 30, 2013	11,313
March 27, 2014	24,094
September 22, 2014	83,763
October 23, 2014	57,828
Total	<u>\$ 218,524</u>

The absence of the checklists could result in payments being made without proper authorization. Although the validation checklists were missing, we determined that all expenditures were program-related and supported by invoices and/or other documentation. All expenditures were properly recorded, except for the administrative expense noted in Finding 2.

As part of our expenditure testing plan, we selected an initial limited number of transactions. Based on the results of testing, we determined that testing additional transactions would not affect our overall conclusion that validation checklists were not consistently maintained.

CPUC GO 28 requires public utilities to preserve all records, memoranda, and papers supporting all transactions so that the CPUC may readily examine them at its convenience.

### Recommendation

We recommend that PG&E ensure that all recorded ESA program expenditures are fully supported by sufficient, appropriate documentation, and that all documentation is preserved in such a manner that it may be readily examined.

### PG&E's Response

PG&E agrees with the finding and recommendation. PG&E stated that it has implemented process improvements related to routing and storage of documents.

### SCO Comment

Although PG&E stated that it has implemented corrective actions regarding the finding and recommendation, we did not validate the implementation or effectiveness of these corrective actions. CPUC should follow up to ensure that the corrective actions were adequate and appropriate.

**FINDING 2—  
PG&E lacked an  
appropriate  
method to capture  
and account for  
administrative  
costs**

Our expenditure testing, described in Finding 1, noted that one transaction for contractor administrative costs was accounted for in measure costs rather than in administrative costs. Accounting for contractors' administrative costs in this manner understates the true cost of PG&E's administrative expenses and overstates the measure cost category. Without an appropriate method by which to capture and account for ESA program administrative costs in one reporting area, the CPUC is unable to compare measure costs and administrative costs to properly evaluate budget proposals.

Public Utilities Code section 584 states, "Every public utility shall furnish such reports to the commission at such time and in such form as the commission may require in which the utility shall specifically answer all questions propounded by the commission."

CPUC D.05-04-052 V.E., Investor Owned Utility Contractor Costs, requires a contractor to furnish a full breakdown of its contractor costs so that the utilities can furnish it to the CPUC.

This issue was also noted in the prior examination performed by the CPUC. The examination report recommended that the CPUC work with the four large utility companies to devise an accounting and reporting system for capturing all costs to administer the ESA program in the administrative cost category. Furthermore, the recommendation stated that the CPUC's Energy Division would provide guidance and plans for resolving this matter. As the resolution is pending, we did not pursue further testing on this issue.

Recommendation

We recommend that PG&E continue to work with the CPUC to devise an accounting and reporting system to capture and account for all ESA program administrative costs in one reporting area.

PG&E's Response

PG&E agrees with the finding and recommendation. PG&E stated that it has implemented corrective actions regarding the finding and recommendation.

SCO Comment

Although PG&E stated that it has implemented corrective actions regarding the finding and recommendation, we did not validate the implementation or effectiveness of these corrective actions. CPUC should follow up to ensure that the corrective actions were adequate and appropriate.

**FINDING 3—  
PG&E did not  
provide adequate  
supporting  
documentation for  
contract  
procurement**

For contract procurement testing, we obtained a list of all active contracts during the audit period, consisting of approximately 35 contractors that were sorted into five service categories: Air Conditioning Tune Up; Heating, Ventilation, and Air Conditioning; Refrigeration; Refrigerator Leveraging; and Weatherization. We selected four contractors with the highest contract values, consisting of three contractors from three different categories and one contractor from the remaining two categories.

Our review found that PG&E did not provide adequate supporting documentation for two contractors as follows:

- Lovotti: The contractor received a direct award with an effective date of April 29, 2013. The Direct Award Request Form No. 62-1562 referenced a justification. However, when requested by the auditor, PG&E did not provide actual documents to support the justification.
- Richard Heath and Associates, Inc. (RHA): The contractor received a bid award with an effective date of December 21, 2012. PG&E was not able to locate the Bid Record Form for this award. RHA was also the contractor for two other service categories and had approximately 40 subcontractors. Consequently, we were unable to determine justification for selecting this contractor or whether RHA and its subcontractors were the most qualified bid recipients.

During fieldwork, PG&E staff indicated that the staff responsible for these documents during the audit period are no longer with the contracts section. As such, PG&E cannot attest to what transpired then.

Based on the results of testing, we determined that testing additional transactions would not affect our overall conclusion that supporting documents for contract procurement were not maintained.

PG&E *Requisition to Pay Procurement Manual*, 2. Source, page 37 states:

All Direct Award recommendations for non-catalog contracts over \$100,000 must be documented, and documents related to the sourcing efforts and decision criteria used to select the supplier must be retained in the contract file.

PG&E *Bid Record Form* (62-1561), Step 3.2 states:

The Sourcing department completes this Bid Record to document the award justification through competitive bidding. This award justification is a required part of the contract package.

CPUC GO 28 requires public utilities to preserve all records, memoranda, and papers supporting all transactions so that the CPUC may readily examine them at its convenience.

PG&E *Requisition to Pay Procurement Manual*, 3. Contract, page 31 states:

The SRM contract must contain attachments of the contract document as well as any related documentation (i.e. specifications, award justification, etc.). Having all contract documents attached to the SRM contract allows users to easily access and refer to these documents, thereby helping ensure contract compliance.

### Recommendation

To adhere to its procurement policies and procedures, we recommend that PG&E document in sufficient detail the rationale for its procurement methods, decision criteria, and award justifications.

### PG&E's Response

PG&E disagrees with the finding regarding Lovotti, Inc. PG&E stated that it had provided SCO with the Direct Award Form (62-1562), and that the form contained five detailed justifications supporting the award to the contractor.

PG&E partially agrees with the finding regarding RHA. It agrees that it was not able to locate the Bid Record Form (62-1561), but PG&E disagrees that it was not able to provide justification for selecting the contractor. PG&E stated that it was able to locate a supporting document that contains the majority of the information documented in the Bid Record Form to provide justification for the award. PG&E stated that it has implemented action plans to mitigate the risk of a similar finding in the future.

PG&E disagrees with the statement in the finding that PG&E staff responsible for documents during the audit period are no longer with the contracts section and that PG&E cannot attest to what transpired at that time. PG&E stated that it was able to identify the actions that transpired related to the contracts identified in the finding.

### SCO Comment

The finding and recommendation remain unchanged.

Regarding Lovotti, Inc., PG&E provided the Direct Award Request Form to the SCO on November 3, 2016. Although the form included five justifications, we subsequently requested additional documentation to support the statements made on the form; PG&E did not provide this additional documentation. For example, one justification stated that "through benchmarking and aggressive negotiations," Lovotti offered competitive pricing. A cost analysis comparing other vendors' prices or industry benchmarks would have constituted adequate support for Lovotti's competitive pricing justification.

Regarding RHA, when PG&E responded to this draft report, it provided PowerPoint slides titled "ESAP RFP Finalist Recommendation." The slides contained a breakdown of the bidders' scores during the request for proposal (RFP) evaluation. However, PG&E did not provide additional documentation to substantiate the amounts in the PowerPoint slides, and we could not reconcile the scores to any RFP documentation provided during fieldwork.

At a meeting on October 27, 2016, contracts section staff members indicated that staff who worked on the RHA and Lovotti procurements were no longer with the contracts section. As a result, the supporting documentation that we requested during audit fieldwork was not provided.

## Appendix 1— Compliance with Applicable Laws, Regulations, and Agreement Terms and Conditions

APPLICABLE LAWS, REGULATIONS, AND AGREEMENT TERMS AND CONDITIONS	AUDIT RESULTS
CPUC GO 28 Preservation of records of public utilities and common carriers	Did not comply; see Findings 1 and 3
CPUC D.12-08-044 Section 6.2. Fund Shifting Rules	Complied
CPUC D.08-11-031 Section 20. Fund Shifting	Complied
<i>California Statewide Energy Savings Assistance Program Policy and Procedures Manual</i> . Section 2 Customer and Structural Eligibility	Complied
CPUC D.08-11-031 Section 11. 3 Measure Minimum Rule	Complied
CPUC D.09-06-026 Section 2.1. Modified “3 Measure Minimum Rule”	Complied
PG&E Requisition To Pay Procurement Manual, 2. Source and 3. Contract	Did not comply; see Finding 3
CPUC D.05-04-052 V.E., IOU Contractor Costs	Did not comply; see Finding 2

## Appendix 2— Summary Schedule of Prior CPUC Audit Findings

### CPUC INTERIM FINANCIAL, MANAGEMENT AND REGULATORY COMPLIANCE EXAMINATION OF PACIFIC GAS & ELECTRIC COMPANY'S ESA PROGRAM FOR JANUARY 1, 2009 THROUGH DECEMBER 31, 2010

CPUC's Observations and Recommendations	Status	SCO Comments
<p><u><b>OBSERVATION 2:</b></u> PG&amp;E failed to demonstrate compliance with the Federal Energy Regulatory Commission (FERC) Uniform System of Accounts (USOA), General Order (GO) 28 and its internal accounting controls. Invoices for six percent or \$2.98 million of the sampled contractor invoice transactions lacked sufficient documentation.</p>		
<p><b>RECOMMENDATION:</b> PG&amp;E should ensure that all recorded program expenditures are fully supported by sufficient appropriate documentation, including documents substantiating its performed procedures.</p>	Not implemented	Our audit found similar issues related to program expenditures. See Finding 1.
<p><u><b>OBSERVATION 6:</b></u> PG&amp;E failed to demonstrate compliance with general accounting best practices and § 581. PG&amp;E reports its prime contractor costs to administer its ESAP within other cost areas such as within the measures.</p>		
<p><b>RECOMMENDATION:</b> To accurately reflect the true extent of the ESAP general administrative costs, the Commission and all four large utilities providing ESAP should devise an accounting and reporting system to capture all costs to administer ESAP in the administrative cost category whether incurred internally or by the utility or externally by a utility contractor. Within 90 days of the date of this memo, ED should provide its guidance or decision to the utilities and UAFCB on how it plans to resolve this matter.</p>	Not implemented	Our audit found similar issues related to accounting for administrative costs. See Finding 2.
<p><u><b>OBSERVATION 7:</b></u> PG&amp;E failed to demonstrate compliance with: the USOA, GO 28, D.05-04-052 and §§ 451, 581, and 584. Thirty-nine percent of the contracted hourly rates of PG&amp;E's implementation contractors are unidentified general administrative costs and lack proper substantiation.</p>		
<p><b>RECOMMENDATION:</b> PG&amp;E should begin to require its contractors to provide a full breakdown and substantiation of their costs as required in D.05-04-052 and GO 28 and provide the results of such when requested to do so by the Commission.</p>	Not implemented	PG&E stated that guidance regarding the level of detail that must be provided by its contractors is pending from the CPUC Energy Division.

## Appendix 2 (continued)

CPUC's Observations and Recommendations	Status	SCO Comments
<p><u><b>OBSERVATION 8:</b></u> PG&amp;E failed to demonstrate compliance with the FERC USOA, GO 28 and its own internal accounting controls. Two recorded entries from the sample reviewed were lacking supporting employee timecards.</p>		
<p><b>RECOMMENDATION:</b> PG&amp;E should ensure all recorded program expenditures are fully supported by sufficient appropriate documentation and maintain said documentation so that UAFCB may readily examine them at its convenience.</p>	<p>PG&amp;E provided SCO with documentation of its current time-entry processes.</p>	<p>PG&amp;E provided the Time Administrator Training Guide, last updated July 16, 2015, and a copy of the New Time Entry Process for Customized Energy Solutions (CES) Business Operations. PG&amp;E stated that it had implemented SAP ESS/MSS (Employee Self Service/Manager Self Service) in January 2013 to improve labor recording processes. SAP ESS/MSS provides the following functions: management employees can submit their time directly; supervisors and their delegates can approve time directly; timekeepers do not need to manually enter time or maintain timesheets in other systems; and the system validates leave balances in real time and implements general time-entry validation rules and controls.</p> <p>We did not test the effectiveness of PG&amp;E's implementation of these processes. However, we did validate that PG&amp;E implemented SAP ESS/MSS.</p>

## Appendix 2 (continued)

CPUC's Observations and Recommendations	Status	SCO Comments
<p><u>OBSERVATION 9:</u> PG&amp;E failed to demonstrate compliance with §§ 451, 581, and 584. PG&amp;E overpaid one of its contractors by \$8,272.</p> <p>RECOMMENDATION: PG&amp;E should: (1) revise the terms of its existing contracts to include a provision requiring a detail-level hours worked schedule from its vendors; (2) refund ESAP funds with either (a) a charge against its investors' account or (b) a recovery from the contractor in question; and (3) ensure accurate and complete vendor billing support before making payments. Within 90 days after the UAFCB provides its Energy Division Director memo and Appendix A and C to PG&amp;E, it should provide the UAFCB with a summary of the steps it has taken to resolve this matter.</p>	<p>PG&amp;E provided a corrective action plan.</p>	<p>PG&amp;E stated that: (1) It will include the detail level of hours worked requirement in all subsequent contracts with Direct Technologies. We did not verify this update to the contracts. (2) A recovery from the contractor was not warranted because the revised support for the invoice reconciled with the invoice total. We validated this assertion. (3) It provided UAFCB with evidence that all program managers in ESAP on June 27, 2013, completed an invoice review refresher training program to ensure accurate and complete vendor billing support before making payments.</p>
<p><u>OBSERVATION 10:</u> PG&amp;E failed to demonstrate compliance with the USOA, GO 28 and §§ 451, 581, and 584. UAFCB was unable to determine the accuracy of invoices totaling \$266,036.</p> <p>RECOMMENDATION: PG&amp;E should: (1) revise its existing contracts to include a provision requiring a detailed level, as opposed to the summary level, of hours worked from its vendors; (2) review the recorded expense entries discussed above against a to-be-recalculated amount that is to be based on a detailed level of hours worked and, if the entries do not reconcile, make restitution to the program balancing account with either (a) a charge against its investors' account or (b) a monetary recovery from the vendor; and (c) ensure accurate and complete vendors billing support before making payments. Within 90 days after the UAFCB provides its Energy Division Director memo and Appendix A and C to PG&amp;E, it should provide UAFCB with: (1) copies of the detail-level schedules of hours worked for the invoices in question or evidence of making restitution to the program and (2) a copy of a revised contract requiring the contractor to provide a detail-level schedule of hours worked in addition to the summary.</p>	<p>PG&amp;E provided a corrective action plan.</p>	<p>PG&amp;E stated that: (1) It included the detail level of hours worked requirement in all subsequent contracts with Direct Technologies. We did not verify this update to contracts. (2) A recovery from the contractor was not warranted because the revised support for the invoices reconciled with the invoice totals. We validated this assertion; however, our review of the revised invoice support differed from the invoice total by \$88.</p>

## Appendix 2 (continued)

CPUC's Observations and Recommendations	Status	SCO Comments
<p><u>OBSERVATION 11:</u> PG&amp;E did not demonstrate compliance with §§ 581 and 584. PG&amp;E improperly accounted for or improperly accrued some of its employee's hours.</p> <p>RECOMMENDATION: PG&amp;E should ensure proper accounting for its labor hours to ensure accurate data reporting and program labor costing.</p>	<p>PG&amp;E provided SCO with documentation of its current time-entry process.</p>	<p>PG&amp;E stated that it provided staff with a Time Administrator Training Guide, last updated July 16, 2015, and a copy of the New Time Entry Process for CES Business Operations. PG&amp;E stated it implemented SAP ESS/MSS in January 2013 to improve labor recording processes. SAP ESS/MSS provides the following: management employees can submit their time directly; supervisors and their delegates can approve time directly; timekeepers do not need to manually enter time or maintain timesheets in other systems; and the system validates leave balances in real time and implements general time-entry validation rules and controls.</p> <p>We did not test the effectiveness of PG&amp;E's implementation of these processes. However, we did validate that PG&amp;E implemented SAP ESS/MSS.</p>
<p><u>OBSERVATION 14:</u> PG&amp;E failed to demonstrate compliance with FERC USOA, GO 28 and its own internal controls and procurement policies and procedures. Over 34% of the payments to contractors that UAFCB sampled lacked proper supporting documentation.</p> <p>RECOMMENDATION: PG&amp;E should (1) adhere to and enforce the terms of its existing contracts and (2) preserve all the required documentation supporting all of its recorded expenses in a manner such that UAFCB may readily examine the same at its convenience. (3) If PG&amp;E changes the way it conducts business during an active contract period, PG&amp;E should amend its contracts with its direct service providers and ensure that the terms of the executed contract are adhered to.</p>	<p>PG&amp;E provided a corrective action plan.</p>	<p>For (1) and (3), PG&amp;E stated that it will update Section 8—Work Authorization Form of the Repair and Replacement contracts to clarify that the information is to be submitted electronically for any new contracts or existing contracts when they are renewed. We did not verify this update to the contracts. For (2), PG&amp;E stated that it continues to require its contractors to electronically enter the Work Authorization Form details directly into the Energy Partners Online database. We did test the effectiveness of this process.</p>

## Appendix 2 (continued)

CPUC's Observations and Recommendations	Status	SCO Comments
<p><u>OBSERVATION 15:</u> PG&amp;E failed to demonstrate compliance with §§ 451, 581 and 584. Five of the sampled transactions regarding payments to PG&amp;E's direct service providers that UAFCB reviewed had inconsistent accounting for rendered services and allocations between its gas and electric programs.</p> <p>RECOMMENDATION: UAFCB should review PG&amp;E's new controls and their implementation in this area in a future audit or examination.</p>	<p>PG&amp;E did not provide a corrective action plan.</p>	<p>Based on interviews and flowcharts provided by PG&amp;E of their Energy Partner Online process, any corrections necessary to invoices are sent back to the contractor to revise and resubmit for payment. We did not test the effectiveness of PG&amp;E's implementation of this process.</p>

**Attachment—  
Pacific Gas and Electric Company's Response to  
Draft Audit Report**

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**Pacific Gas and  
Electric Company**

**Memorandum**

**Date:** November 5, 2018  
**To:** Andrew Finlayson, Chief, Division of Audits, State Controller's Office  
**From:** Marlene Murphy-Roach  
Director, Low Income Programs & Disadvantaged Communities  
**Subject:** Pacific Gas and Electric Company's Response to the California State Controller's Office Audit of the PG&E Energy Savings Assistance (ESA) Program (January 1, 2013 – December 31, 2015)

Pacific Gas & Electric received the State Controller's Office (SCO) second draft audit report on October 15, 2018. PG&E appreciates the work of the State Controller's Office in auditing the Energy Savings Assistance (ESA) program for the period of January 1, 2013 through December 31, 2015.

The SCO's first draft audit report was issued on October 18, 2017. PG&E filed a response to the first report on December 1, 2017. The majority of the Findings and Recommendations in the second draft audit report are unchanged from the first report. Where appropriate, PG&E incorporates its response to the SCO Findings and Recommendations issued in 2017.

PG&E's response to the second draft report is organized into three sections:

- A. PG&E's Response Audit Report Findings and Recommendations.
- B. PG&E's Response to Conclusions in Appendix 1 of SCO report.
- C. PG&E's Response to Observations and Recommendations in Appendix 2 of SCO report.

**A. PG&E's Response Audit Report Findings and Recommendations.**

- 1. SCO Finding 1 - PG&E did not consistently maintain validation checklists for ESA expenditures

The SCO draft audit report found:

- PG&E did not maintain validation checklists for five of 34 ESA program expenditure to indicate that the expenditures were reviewed and authorized prior to payment.<sup>1</sup>

The draft audit report recommended that PG&E ensure that all program expenditures are fully supported by sufficient appropriate documentation, and that such documentation is preserved in such a manner that it may be readily examined.<sup>2</sup>

To facilitate proper record keeping including the transaction validation checklists, PG&E has implemented the following process improvements related to routing and storage of the documents since 2015:

<sup>1</sup> SCO Draft Audit Report, p. 1. All references are to the SCO report dated October 3, 2018, unless otherwise stated.

<sup>2</sup> SCO Draft Audit Report, p. 5.

- In January 2016, the ESA program implemented Utility Standard 2015-118891 ("Energy Savings Assistance Program Contract Price"). This standard defines the steps the ESA program uses for Quality Assurance/Quality Control on a sample of weekly invoices over \$500,000 to ensure the contractually agreed upon measure amount was correctly captured in the invoice before final approval. This validation process compares the costs listed in the invoice to the costs identified in the contract to ensure they match. This is done in addition to the Validation Checklist and is also attached to the invoice as supporting documentation and proof of review.
- Beginning in March 2016, the review and approval of all invoices, including supporting Validation Checklist, for the ESA program are conducted through PG&E's Electronic Document Routing System (EDRS). Implementing electronic routing for approval ensures all supporting documentation for expenditures are included in the approval request and mitigates the risk of documents being lost.

**2. SCO Finding 2 - PG&E lacked an appropriate method to capture and account for administrative costs**

The SCO draft report found:

- PG&E does not have an appropriate method for capturing and accounting for ESA program administrative costs.<sup>3</sup>

The draft audit report recommended that PG&E continue to work with the CPUC to devise an accounting and reporting system to capture and account for all ESA program administrative costs in one reporting area.<sup>4</sup>

PG&E agrees with this recommendation. PG&E proposed to establish a stand-alone Implementation line item to account for ESA program administrative costs incurred by prime contractors in one reporting category of the proposed budget tables. PG&E proposed this change in an advice letter filed on 6/20/2017, and approved by the Commission on 12/14/2017.<sup>5</sup> Beginning January 2018, PG&E's monthly ESA program report to the Commission incorporated the revised budget template that identifies the prime contractors' administrative costs on a monthly basis. An example of this table is included as Attachment 1.

**3. SCO Finding 3 - PG&E did not provide adequate supporting documentation for contract procurement**

The SCO draft report found:

- Two of four contract records tested lacked adequate documentation to support contract awards.<sup>6</sup>

To adhere to its procurement policies and procedures, the draft audit report recommended that PG&E maintain records that sufficiently detail the rationale for the method of procurement and proper contractor justification.<sup>7</sup>

<sup>3</sup> SCO Draft Audit Report, p. 1.

<sup>4</sup> SCO Draft Audit Report, p. 5. This SCO finding and recommendation has not been revised since the October 18, 2017 draft report. PG&E incorporates the response it provided in December 1, 2017 and provides additional information on the activities that have transpired since.

<sup>5</sup> PG&E's Conforming Advice 3830-G-A/5043-B-A was filed 6/20/2017 and is approved via Resolution G-3531 dated 12/14/2017.

<sup>6</sup> SCO Draft Audit Report, p. 1.

The SCO draft report identified three justifications to support its finding.

**a. Contract Award to Lovotti, Inc.**

The SCO draft reports refers to a contract that PG&E awarded to Lovotti, Inc. in 2013. The SCO draft report found:

- Lovotti: The contractor received a direct award with an effective date of April 29, 2013. The Direct Award Request Form No. 62-1562 referenced a justification. However, when requested by the auditor, PG&E did not provide actual documents to support the justification.<sup>7</sup>

PG&E disagrees with the SCO finding. In response to the SCO request, PG&E provided the Direct Award Form (62-1562) for Lovotti, Inc. via Data Request 31 on 11/3/2016. This Form contained five detailed justifications supporting the award to the contractor. Providing this response to the SCO constituted a full response to the request for information. PG&E will provide a copy of the form to the SCO through a separate communication.

**b. Contract Award to Richard Heath and Associates (RHA)**

PG&E agrees that PG&E did not provide or locate the Bid Record Form (62-1561) for RHA. The SCO draft report, p. 6, states:

- Richard Heath and Associates, Inc. (RHA): The contractor received a bid award with an effective date of December 21, 2012. PG&E was not able to locate the Bid Record Form for this award. RHA was also the contractor for two other service categories and had approximately 40 subcontractors. Consequently, we were unable to determine justification for selecting this contractor or whether RHA and its subcontractors were the most qualified bid recipients.<sup>8</sup>

PG&E partially agrees with this finding, as PG&E was not able to locate the Bid Record Form (62-1561). However, PG&E disagrees that PG&E was not able to provide justification for selecting the contractor. PG&E was able to locate a supporting document that contains the majority of the information documented in the Bid Record Form (62-1561) and provides justification for the award. PG&E will provide a copy of this information to the SCO through a separate communication.

PG&E has implemented action plans to mitigate the risk of a similar finding in the future. To assure continuous improvement and consistency across work portfolios, PG&E formalized a revised strategic sourcing process and associated training that specifically covers document retention. This mandatory training was rolled out in December 2016 and requires annual renewal.

**c. SCO's Fieldwork Finding**

PG&E respectfully disagrees with the SCO's findings regarding fieldwork discussions. The SCO report found:

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<sup>7</sup> SCO Draft Audit Report, p. 7.

<sup>8</sup> SCO Draft Audit Report, p. 6.

<sup>9</sup> SCO Draft Audit Report, p. 6.

- During fieldwork, PG&E staff indicated that the staff responsible for these documents during the audit period are no longer with the contracts section. As such, PG&E cannot attest to what transpired then.<sup>10</sup>

PG&E disagrees with this finding as PG&E has been able to identify the actions that transpired related to the contracts SCO identified in this section. PG&E has provided information to the contracts identified by the SCO. PG&E is not clear on the time period referred to in this response or on the information referred to by the SCO in this finding.

**4. SCO Conclusion and Follow Up on Prior Audit Findings. PG&E did not provide adequate supporting documentation for contract procurement Follow-up on Prior Audit Findings**

The SCO draft report found:

- For the CPUC's prior examination of the ESA program, *Interim Financial Management and Regulatory Compliance Examination of Pacific Gas & Electric Company's Energy Savings Assistance Program for January 1, 2009 through December 31, 2010*, dated April 16, 2013, the SCO draft report found, "Based on work performed in the current audit, we noted that PG&E has not implemented appropriate corrective actions for Observations 2 and 6."

PG&E responds to this statement in the paragraphs below.

Observation 2 states that PG&E did not consistently maintain sufficient documentation for BSA expenditures. As SCO noted, this observation is similar to the SCO's draft audit report Finding 1. PG&E agrees with this comment and implemented appropriate corrective action as detailed above in response to Finding 1. PG&E implemented process improvements to facilitate proper record keeping in 2016. These improvements addressed routing and storage of the documents and use of transaction validation checklists.

Observation 6 states that PG&E lacked an appropriate method to capture and account for administrative costs. As SCO noted, this observation is the same as the SCO's draft audit report Finding 2. PG&E agrees with this comment and implemented appropriate corrective action. As stated above in response to Finding 2: PG&E implemented a stand-alone implementation line item to account for ESA program administrative costs incurred by prime contractors. The Commission approved this new implementation budget category and it was added to ESA monthly CPUC reporting starting January 2018.<sup>11</sup> An example of this new budget report is attached at Attachment I.

**B. PG&E's Response to Conclusions in Appendix 1 of SCO draft report.**

The SCO draft report, Appendix 1, contains a summary of "Audit Results." These "Results" duplicate the findings that are also contained in the main SCO draft report. PG&E incorporates by reference it's responses in Section A above.

**C. PG&E's Response to Observations and Recommendations in Appendix 2 of SCO draft report.**

The SCO draft report, Appendix 2, contains a "Summary Schedule of Prior CPUC Audit Findings." Attachment 2 to this response contains PG&E's response to each SCO comment in Appendix 2 of the SCO draft report.

<sup>10</sup> SCO Draft Audit Report, p. 4.

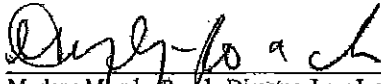
<sup>11</sup> PG&E's Conforming Advice 3830-G-A/5043-E-A was filed 6/20/2017 and is approved via Resolution G-3531 dated 12/14/2017.

**D. Conclusion**

PG&E appreciates the work of the State Controller's Office in auditing the Energy Savings Assistance (ESA) program and looks forward the final audit report.

If there are any follow up questions concerning this response, please contact Paola Benassi at 415.973.5731.

As the accountable Director for the Energy Savings Assistance Program, I certify that the above information is accurate.

A handwritten signature in black ink, appearing to read "Murphy-Roach", written over a horizontal line.

Marlene Murphy-Roach, Director, Low Income Programs & Disadvantaged Communities

cc: Paola Benassi, Manager, Customer Energy Solutions

Attachment 1: Energy Savings Assistance (ESA) Program Monthly Report Table 1 for January 2018

Energy Savings Assistance Program Table 1 - Expenses  
Pacific Gas and Electric Company  
Through January 31, 2018

ESA Program	Authorized Budget FY			Current Month Expenses			Year to Date Expenses			% of Budget Spent YTD		
	Electric	Gas	Total	Electric	Gas	Total	Electric	Gas	Total	Electric	Gas	Total
Energy Efficiency	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Appliances	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Domestic Hot Water	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Buildings	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
CAVIO	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Miscellaneous	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Lighting	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Miscellaneous	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Customer Enrollment	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Other Education	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Pay	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Administration (2)	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Energy Efficiency TOTAL	\$ 6,345,123	\$ 6,881,020	\$ 13,226,143	\$ 160,828	\$ 20,147	\$ 180,975	\$ 160,828	\$ 20,147	\$ 180,975	1%	0%	1%
Training Center	\$ 2,624,128	\$ 2,624,128	\$ 5,248,256	\$ 50,210	\$ 45,110	\$ 95,320	\$ 50,210	\$ 45,110	\$ 95,320	0%	0%	0%
Production	\$ 2,624,128	\$ 2,624,128	\$ 5,248,256	\$ 50,210	\$ 45,110	\$ 95,320	\$ 50,210	\$ 45,110	\$ 95,320	0%	0%	0%
Maintaining and Outreach	\$ 2,624,128	\$ 2,624,128	\$ 5,248,256	\$ 50,210	\$ 45,110	\$ 95,320	\$ 50,210	\$ 45,110	\$ 95,320	0%	0%	0%
Statistical Monitoring Evaluation and Outreach	\$ 2,624,128	\$ 2,624,128	\$ 5,248,256	\$ 50,210	\$ 45,110	\$ 95,320	\$ 50,210	\$ 45,110	\$ 95,320	0%	0%	0%
Measurement and Evaluation Studies	\$ 2,624,128	\$ 2,624,128	\$ 5,248,256	\$ 50,210	\$ 45,110	\$ 95,320	\$ 50,210	\$ 45,110	\$ 95,320	0%	0%	0%
Regulatory Compliance	\$ 2,624,128	\$ 2,624,128	\$ 5,248,256	\$ 50,210	\$ 45,110	\$ 95,320	\$ 50,210	\$ 45,110	\$ 95,320	0%	0%	0%
General Administration	\$ 2,624,128	\$ 2,624,128	\$ 5,248,256	\$ 50,210	\$ 45,110	\$ 95,320	\$ 50,210	\$ 45,110	\$ 95,320	0%	0%	0%
CPUC Energy Division	\$ 2,624,128	\$ 2,624,128	\$ 5,248,256	\$ 50,210	\$ 45,110	\$ 95,320	\$ 50,210	\$ 45,110	\$ 95,320	0%	0%	0%
TOTAL PROGRAM COSTS (1)	\$ 8,969,251	\$ 9,505,148	\$ 18,474,399	\$ 211,038	\$ 65,257	\$ 276,295	\$ 211,038	\$ 65,257	\$ 276,295	3%	2%	3%
Net Cost	\$ 8,969,251	\$ 9,505,148	\$ 18,474,399	\$ 211,038	\$ 65,257	\$ 276,295	\$ 211,038	\$ 65,257	\$ 276,295	3%	2%	3%

(1) Authorized Budget: Authorized budget does not include any other cost items. These are shown on this Table 1A.  
 (2) Net Cost: Net cost is calculated as the total cost minus the total savings. The net cost is the amount that the program is expected to cost the utility.  
 (3) Program Budget: The program budget is the total amount of money that the program is expected to cost the utility.  
 (4) Net Cost: Net cost is calculated as the total cost minus the total savings. The net cost is the amount that the program is expected to cost the utility.  
 Notes: Any required controls/adjustments are reported in the net cost and are reported in the net cost and may reflect YTD adjustments.

Attachment 2: Appendix 2 – Summary Schedule of Prior CPUC Audit Findings

Appendix 2—

Summary Schedule of Prior CPUC Audit Findings

CPUC INTERIM FINANCIAL, MANAGEMENT AND REGULATORY COMPLIANCE  
EXAMINATION OF  
PACIFIC GAS & ELECTRIC COMPANY'S ESA PROGRAM  
FOR JANUARY 1, 2019 THROUGH DECEMBER 31, 2010

CPUC's Observations and Recommendations	Status	SCO Comments	PG&E Comments
<p><b>OBSERVATION 2:</b> PG&amp;E failed to demonstrate compliance with the Federal Energy Regulatory Commission (FERC) Uniform System of Accounts (USOA), General Order (GO) 28 and its internal accounting controls. Invoices for six percent or \$2.98 million of the sampled contractor invoice transactions lacked sufficient documentation.</p> <p><b>RECOMMENDATION:</b> PG&amp;E should ensure that all recorded program expenditures are fully supported by sufficient appropriate documentation, including documents substantiating its performed procedures.</p>	Not Implemented	Our audit found similar issues related to program expenditures. See Finding 1.	PG&E Implemented process improvements related to routing and storage of the documents since 2015. See PG&E's response to Finding 1.
<p><b>OBSERVATION 6:</b> PG&amp;E failed to demonstrate compliance with general accounting best practices and § 581. PG&amp;E reports its prime contractor costs to administer its ESAP within other cost areas such as within the measures.</p> <p><b>RECOMMENDATION:</b> To accurately reflect the true extent of the ESAP general administrative costs, the Commission and all four large utilities providing ESAP should devise an accounting and reporting system to capture all costs to administer ESAP in the administrative cost category whether incurred internally or by the utility or externally by a utility contractor. Within 90 days of the date of this memo, ED should provide its guidance or decision to the utilities and UAFCB on how it plans to resolve this matter.</p>	Not Implemented	Our audit found similar issues related to accounting for administrative costs. See Finding 2.	PG&E Implemented process improvements to ensure prime contractor administrator costs are captured in a separate budget line item. See PG&E's response to Finding 2.

CPUC's Observations and Recommendations	Status	SCO Comments	PG&E Comments
<p><b>OBSERVATION 7:</b> PG&amp;E failed to demonstrate compliance with: the USOA, GO 28, D.05-04-052 and §§ 451, 581, and 584. Thirty-nine percent of the contracted hourly rates of PG&amp;E's implementation contractors are unidentified general administrative costs and lack proper substantiation.</p> <p><b>RECOMMENDATION:</b> PG&amp;E should begin to require its contractors to provide a full breakdown and substantiation of their costs as required in D.05-04-052 and GO 28 and provide the results of such when requested to do so by the Commission.</p>	Not Implemented	<p>PG&amp;E stated that guidance regarding the level of detail that must be provided by its contractors is pending from the CPUC Energy Division.</p>	PG&E agrees with the SCO's comments.
<p><b>OBSERVATION 8:</b> PG&amp;E failed to demonstrate compliance with the FERC USOA, GO 28 and its own internal accounting controls. Two recorded entries from the sample reviewed were lacking supporting employee timecards.</p> <p><b>RECOMMENDATION:</b> PG&amp;E should ensure all recorded program expenditures are fully supported by sufficient appropriate documentation and maintain said documentation so that UAFCB may readily examine them at its convenience.</p>	PG&E provided SCO with documentation of its current time-entry processes.	<p>PG&amp;E provided the Time Administrator Training Guide, last updated July 16, 2015, and a copy of the New Time Entry Process for Customized Energy Solutions (CES) Business Operations. PG&amp;E stated that it had implemented SAP ESS/MSS (Employee Self Service/Manager Self Service) in January 2013 to improve labor recording processes. SAP ESS/MSS provides the following functions: management employees can submit their time directly; supervisors and their delegates can approve time directly; timekeepers do not need to manually enter time or maintain timesheets in other systems; and the system validates leave balances in real time and implements general time-entry validation rules and controls.</p> <p>We did not test the effectiveness of PG&amp;E's implementation of these processes. However, we did validate that PG&amp;E implemented SAP ESS/MSS.</p>	SCO's comments accurately reflect PG&E's actions to address UAFCB's Recommendation.

CPUC's Observations and Recommendations	Status	SCO Comments	PG&E Comments
<p><b>OBSERVATION 9:</b> PG&amp;E failed to demonstrate compliance with §§ 451, 581, and 584. PG&amp;E overpaid one of its contractors by \$8,272.</p> <p><b>RECOMMENDATION:</b> PG&amp;E should: (1) revise the terms of its existing contracts to include a provision requiring a detail-level hours worked schedule from its vendors; (2) refund ESAP funds with either (a) a charge against its Investors' account or (b) a recovery from the contractor in question; and (3) ensure accurate and complete vendor billing support before making payments. Within 90 days after the UAFCB provides its Energy Division Director memo and Appendix A and C to PG&amp;E, it should provide the UAFCB with a summary of the steps it has taken to resolve this matter.</p>	<p>PG&amp;E provided a corrective action plan.</p>	<p>PG&amp;E stated that: (1) It will include the detail level of hours worked requirement in all subsequent contracts with Direct Technologies. We did not verify this update to the contracts. (2) A recovery from the contractor was not warranted because the revised support for the invoice reconciled with the invoice total. We validated this assertion; however, our review of the revised invoice support differed from the invoice total by \$3. (3) It provided UAFCB with evidence that all program managers in ESAP on June 27, 2013, completed an invoice review refresher training program to ensure accurate and complete vendor billing support before making payments.</p>	<p>PG&amp;E respectively disagrees with the SCO's comment to the extent SCO found invoices did not support \$3 in contractor costs. PG&amp;E's review of the revised invoices shows that the invoices accurately reflect all costs. PG&amp;E will provide a second copy of this information to the SCO through a separate communication.</p>

CPUC's Observations and Recommendations	Status	SCO Comments	PG&E Comments
<p><u>OBSERVATION 10:</u> PG&amp;E failed to demonstrate compliance with the USOA, GO 28 and §§ 451, 581, and 584. UAFCB was unable to determine the accuracy of invoices totalling \$266,036.</p> <p>RECOMMENDATION: PG&amp;E should: (1) revise its existing contracts to include a provision requiring a detailed level, as opposed to the summary level, of hours worked from its vendors; (2) review the recorded expense entries discussed above against a to-be-recalculated amount that is to be based on a detailed level of hours worked and, if the entries do not reconcile, make restitution to the program balancing account with either (a) a charge against its Investors' account or (b) a monetary recovery from the vendor; and (c) ensure accurate and complete vendors billing support before making payments. Within 90 days after the UAFCB provides its Energy Division Director memo and Appendix A and C to PG&amp;E, it should provide UAFCB with: (1) copies of the detail-level schedules of hours worked for the invoices in question or evidence of making restitution to the program and (2) a copy of a revised contract requiring the contractor to provide a detail-level schedule of hours worked in addition to the summary.</p>	PG&E provided a corrective action plan.	PG&E stated that: (1) It included the detail level of hours worked requirement in all subsequent contracts with Direct Technologies. We did not verify this update to contracts. (2) A recovery from the contractor was not warranted because the revised support for the invoices reconciled with the invoice totals. We validated this assertion; however, our review of the revised invoice support differed from the invoice total by \$88.	SCO's comments accurately reflect PG&E's actions to address UAFCB's Recommendation. PG&E implemented invoice validation process improvements since the 2009-10 audit report to address accuracy of Invoicing; CES Invoice Validation Standard (Utility Standard: CUST-4015S).

CPUC's Observations and Recommendations	Status	SCO Comments	PG&E Comments
<p><u>OBSERVATION 11:</u> PG&amp;E did not demonstrate compliance with §§ 581 and 584. PG&amp;E improperly accounted for or improperly accrued some of its employee's hours.</p> <p>RECOMMENDATION: PG&amp;E should ensure proper accounting for its labor hours to ensure accurate data reporting and program labor costing.</p>	<p>PG&amp;E provided SCO with documentation of its current time-entry process.</p>	<p>PG&amp;E stated that it provided staff with a Time Administrator Training Guide, last updated July 16, 2015, and a copy of the New Time Entry Process for CES Business Operations. PG&amp;E stated it implemented SAP ESS/MSS in January 2013 to improve labor recording processes. SAP ESS/MSS provides the following: management employees can submit their time directly; supervisors and their delegates can approve time directly; timekeepers do not need to manually enter time or maintain timesheets in other systems; and the system validates leave balances in real time and implements general time-entry validation rules and controls.</p> <p>We did not test the effectiveness of PG&amp;E's implementation of these processes. However, we did validate that PG&amp;E implemented SAP ESS/MSS.</p>	<p>SCO's comments accurately reflect PG&amp;E's actions to address UAFCB's Recommendation.</p>
<p><u>OBSERVATION 14:</u> PG&amp;E failed to demonstrate compliance with FERC USOA, GO 28 and its own internal controls and procurement policies and procedures. Over 34% of the payments to contractors that UAFCB sampled lacked proper supporting documentation.</p> <p>RECOMMENDATION: PG&amp;E should (1) adhere to and enforce the terms of its existing contracts and (2) preserve all the required documentation supporting all of its recorded expenses in a manner such that UAFCB may readily examine the same at its convenience. (3) If PG&amp;E changes the way it conducts business during an active contract period, PG&amp;E should amend its contracts with its direct service providers and ensure that the terms of the executed contract are adhered to.</p>	<p>PG&amp;E provided a corrective action plan.</p>	<p>For (1) and (3), PG&amp;E stated that it will update Section 8 – Work Authorization Form of the Repair and Replacement contracts to clarify that the information is to be submitted electronically for any new contracts or existing contracts when they are renewed. We did not verify this update to the contracts. For (2), PG&amp;E stated that it continues to require its contractors to electronically enter the Work Authorization Form details directly into the Energy Partners Online database. We did test the effectiveness of this process.</p>	<p>PG&amp;E agrees with the SCO's comments. PG&amp;E believes the last sentence of SCO's comment is intended to read: "We did NOT test the effectiveness of this process."</p>

CPUC's Observations and Recommendations	Status	SCO Comments	PG&E Comments
<p><u>OBSERVATION 15:</u> PG&amp;E failed to demonstrate compliance with §§ 451, 581 and 584. Five of the sampled transactions regarding payments to PG&amp;E's direct service providers that UAFCB reviewed had inconsistent accounting for rendered services and allocations between its gas and electric programs.</p> <p>RECOMMENDATION: UAFCB should review PG&amp;E's new controls and their implementation in this area in a future audit or examination.</p>	<p>PG&amp;E did not provide a corrective action of their Energy Partner Online plan.</p>	<p>Based on interviews and flowcharts provided by PG&amp;E of their Energy Partner Online process, any corrections necessary to invoices are sent back to contractors to revise and resubmit for payment. We did not test the effectiveness of PG&amp;E's implementation of this process.</p>	<p>PG&amp;E agrees with the SCO's comments</p>

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